## United States District Court

## WESTERN DISTRICT OF MICHIGAN

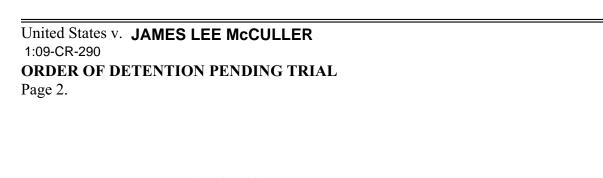
## **UNITED STATES OF AMERICA**

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## ORDER OF DETENTION PENDING TRIAL

JAMES LEE McCULLER Case Number: 1:09-CR-290

JAW	IE3	3 LEE WICCULLER	1100 011 200
require	In ac	accordance with the Bail Reform Act, 18 U.S.C.§3142(f), a detention of the defendant pending trial in this case.	ntion hearing has been held. I conclude that the following facts
		Part I - Findings	of Fact
	(1)	The defendant is charged with an offense described in 18	U.S.C. §3142(f)(1) and has been convicted of a (federal loffense if a circumstance giving rise to federal jurisdiction had
		a crime of violence as defined in 18 U.S.C.§3156(a)(4).	
		an offense for which the maximum sentence is life imp	
		an offense for which the maximum term of imprisonm	ent of ten years or more is prescribed in
		a felony that was committed after the defendant had been U.S.C.§3142(f)(1)(A)-(C), or comparable state or local comparable state or local comparable state.	en convicted of two or more prior federal offenses described in 18 offenses.
	(2)		efendant was on release pending trial for a federal, state or local
	(3)	offense.  A period of not more than five years has elapsed since the (date the offense described in finding (1).	e of conviction) (release of the defendant from imprisonment) for
	(4)	Findings Nos. (1), (2) and (3) establish a rebuttable presumptio assure the safety of (an)other person(s) and the commun presumption.	n that no condition or combination of conditions will reasonably ity. I further find that the defendant has not rebutted this
X	(4)	Alternate Finding	s (A)
_	(1)	There is probable cause to believe that the defendant has co	
		for which a maximum term of imprisonment of ten year under 18 U.S.C.§924(c).	ars or more is prescribed in 21 U.S.C. § 801 et seq
X	(2)	The defendant has not rebutted the presumption established reasonably assure the appearance of the defendant as requ	by finding 1 that no condition or combination of conditions will ired and the safety of the community.
X	(1)	Alternate Finding There is a serious risk that the defendant will not appear.	gs (B)
	(1) (2)	There is a serious risk that the defendant will not appear.  There is a serious risk that the defendant will endanger the s	safety of another person or the community.
	. ,	Defendant is a 26-year-old who has never held employment three times a week and marijuana daily. Defendant maintain	who smokes corn dogs (cocaine mixed with marijuana) two to is he has a learning disability and is unable to read and Social Security disability income until nine years ago, but that
		Defendant has, however, managed to obtain a very extensive	e criminal history in his brief (continued on attached page)
		Part II - Written Statement of Re	asons for Detention
d that t	he c	credible testimony and information submitted at the hear	ing establishes by a preponderance of the evidence that
he unre	ebutt	on or combination of conditions will assure the presence outted presumption, and (2) in the alternative, his 17 failure 2006, and his unrestrained use of drugs on a daily basis.	
		Part III - Directions Rega	rding Detention
acility so efendar er on rec	epar nt shaues	efendant is committed to the custody of the Attorney General of arate, to the extent practicable, from persons awaiting or ser shall be afforded a reasonable opportunity for private consultations of an attorney for the Government, the person in charge of shall for the purpose of an appearance in connection with a constant.	r his designated representative for confinement in a correction ving sentences or being held in custody pending appeal. The with defense counsel. On order of a court of the United State the corrections facility shall deliver the defendant to the United
Dated:	No	November 3, 2009	/s/ Hugh W. Brenneman, Jr.
שמוטע.	- 11		Signature of Judicial Officer
		I-	Hugh W. Brenneman, United States Magistrate Judge
		_	Name and Title of Judicial Officer



**Alternate Findings (B)** - (continued)

adulthood. During these years defendant has failed to appear at least 17 times for court proceedings. Defendant has also committed drug offenses while on probation and absconder status. He presently has a bench warrant outstanding.

After being advised of the pending charges and being instructed to turn himself in, defendant failed to turn himself in as promised and avoided the federal marshals for approximately a week. Ultimately, he chose to turn himself in at a time of his own chosing.

Part II - Written Statement of Reasons for Detention - (continued)